

**MINUTES
of the
FOURTH MEETING
of the
ECONOMIC AND RURAL DEVELOPMENT AND TELECOMMUNICATIONS
COMMITTEE**

**September 27-28, 2006
Ruidoso Downs, New Mexico**

The fourth meeting of the Economic and Rural Development and Telecommunications Committee for the 2006 interim was called to order by Representative Mary Helen Garcia, chair, on Wednesday, September 27, 2006, at 10:07 a.m. at the Best Western Pine Springs Inn in Ruidoso Downs.

Present

Rep. Mary Helen Garcia, chair
Rep. Jose A. Campos (9/27)
Rep. Daniel R. Foley
Sen. Mary Jane M. Garcia (9/28)
Sen. Clinton D. Harden, Jr.
Rep. Patricia A. Lundstrom
Sen. Richard C. Martinez
Rep. Kathy A. McCoy
Rep. Andy Nunez
Sen. John Pinto
Sen. Leonard Tsosie

Advisory Members

Rep. Ernest H. Chavez
Sen. Dianna J. Duran (9/27)
Rep. John A. Heaton (9/28)
Sen. John C. Ryan

Absent

Sen. Bernadette M. Sanchez, vice chair
Rep. Hector H. Balderas
Rep. Dianne Miller Hamilton
Sen. Carroll H. Leavell
Sen. William E. Sharer

Sen. Phil A. Griego
Rep. Ted Hobbs
Sen. Stuart Ingle
Sen. Timothy Z. Jennings
Sen. Steven P. Neville
Rep. Al Park
Sen. Lidio G. Rainaldi
Sen. Shannon Robinson
Rep. Debbie A. Rodella
Rep. Harriet I. Ruiz
Rep. Richard D. Vigil

(Attendance dates are noted for those members not present for the entire meeting.)

Staff

Charles H. Van Gorder
Gordon Meeks
Larry Matlock
Kate Ferlic

Guests

The guest list is in the meeting file.

Handouts

Copies of all handouts and written testimony are in the meeting file.

Wednesday, September 27

Welcome

Jim Stoddard, mayor pro tem of Ruidoso, and Sue Garrett, mayor pro tem of Ruidoso Downs, welcomed the legislators to the area. Brad Treptow, executive director, Ruidoso Valley Chamber of Commerce, announced that the racetrack is celebrating its sixtieth season and promoted the area's other recreational activities. Tourism and real estate are the primary sources of economic development. Dr. Michael Elrod, provost of Eastern New Mexico University-Ruidoso Branch Community College, announced the current bond issue on the ballot for the state education project and asked for legislative support on capital outlay requests for economic development in Ruidoso and Ruidoso Downs.

Hidalgo County Economic Development Plan

Jaime Campos of the Mexican Border Authority introduced new border crossing projects, namely expanding operating hours and making infrastructure improvements at the Antelope Wells-El Berrendo checkpoint. Currently, the hours are 8:00 a.m. to 4:00 p.m. Infrastructure improvements include paving roads on the Mexican and United States sides. Paved roads would create more traffic flow and help to extend hours of the checkpoint until 8:00 p.m. Vicente Vargas, specialist for the New Mexico Department of Agriculture (NMDA), announced that the department is now charged (by subcontract) with evaluating the economic development opportunities in rural southern New Mexico because agriculture is the primary economy in this area. The department identified three focal points for Hidalgo County: capitalize on the international border crossing; attempt to attract some dairies and biomass facilities; and establish support for organic farming. The major issue in Hidalgo County is a housing shortage for the labor market, characterized as low-income families interested in renting. The department will request help from the United States Department of Agriculture (USDA).

Jerry Pacheco, contractor for the NMDA, emphasized the need to work with the northwest region of Chihuahua in order to develop the port of entry at Antelope Wells. Although the port is a federal issue, he recommends that New Mexico advertise in Mexico and pay special attention to the roads leading to and from the port of entry. The 45 miles of State Road 81 north of Antelope Wells are unsafe and do not have cattle fences in all places. The state Department of Transportation is making a capital outlay request to fence it. One legislator

emphasized that roads must be a priority to promote growth. If roads are not safe and easily traveled, it is a disadvantage. Further, the Antelope Wells port of entry is on the agenda for the New Mexico-Chihuahua Commission. The commission is looking to define strategies, including a joint resolution from Governors Richardson and Baeza.

On a motion by Senator Harden and seconded by Representative Lundstrom, the committee unanimously voted to write a letter to the State Transportation Commission that roads leading to Antelope Wells be considered for federal earmarking in the next fiscal year. Copies should be sent to Congressman Pearce and the rest of the congressional delegation.

Mr. Pacheco and Mr. Campos described an example of economic development in Dona Ana County as a model for the type of business Hidalgo County could attract. A year-old printing company in Santa Teresa is significantly contributing to economic development in the area providing high-paying jobs with full coverage health care. The company is the largest printer for the Disney Corporation with plants in Juarez and Montebello, California. The Santa Teresa facility is 75,000 square feet with plans to expand.

A committee member expressed concern that the legislature forfeits too much credit to the executive for local project appropriations, making the point that the legislature is the appropriating body. There were other concerns about whether the federal government plans for the fence will impede economic ventures between Mexico and the United States. Legislators discussed whether the fence would stop illegal immigration, or rather hurt United States-Mexico relations and local businesses. Mexico is the thirteenth largest economy in the world. Lastly, the legislators learned of another potential economic development project: luring Sigma Alimentos (owner of Oscar Meyer) to open a cheese factory in rural New Mexico.

Minutes

On a motion by Representative Campos, seconded by Representative Foley, the committee unanimously voted to approve the minutes from the Tukumcari and Santa Rosa meeting on August 24-25, 2006.

Wireless Networking Technology

Dr. Alfred Barr, general manager of VCS Interactive, LLC, made a proposal to create a public-private partnership to provide a wireless network throughout New Mexico to enhance cell phone connectivity, radio free spectrum, optics (lasers) and wireless connection. Dr. Barr said this service will aid emergency response, security for buildings such as fingerprint recognition, maintain health records (MESTRACK) and help get distance learning to rural areas. The program interfaces with already established services, including WiFi, cable and DSL. This service could also include tribal lands. In terms of funding, the company applies for federal money through the state and is asking for no state money to be appropriated or used. VCS will ask for private investors, and when the network is completed, it will make an application to the Department of Homeland Security and USDA and then buy out investors. In talks with the Federal Communications Commission (FCC), Dr. Barr thought the contracts clause of the constitution would create the most problems. Dr. Barr asked the committee to review the details

of the arrangements and be supportive of the next step in a commercial venture.

The system works with line-of-sight technology. Without line of sight in mountainous areas, the system uses reflections. For towers, heights range from 18 to 150 feet tall. New Mexico has already spent \$150 million wiring the state. The company says it includes already established utilities. For instance, Public Service Company of New Mexico (PNM) can utilize technology to read meters remotely. The company does not need agreements with single entities providing cell service. Dr. Barr said that the spectrum utilized by the technology is not licensed and regulated by the FCC, so no state regulatory agency would have jurisdiction. Public Regulation Commission (PRC) Commissioner E. Shirley Baca agreed that the state would not regulate. She emphasized the PRC aims to get service providers to work together rather than duplicate services.

Dr. Barr said the technology is enhancing already existing businesses and adding infrastructure. The company would add 200 to 500 jobs to the state, and Dr. Barr predicted that a now closed Southwest Communications Facility (in Grants) will reopen. Further, he said, dedicated T-1 lines will cost a consumer \$99.00. Dr. Barr said the company has completed a project in Seattle, Tampa and Raleigh. Dr. Barr said he has contacted the governor's staff, the PRC, universities in New Mexico and private companies, including Qwest, PNM and Sacred Wind.

Harold Skow of the Division of Information Technology for the Navajo Nation and Todd Romero of the Crownpoint Institute of Technology (CIT) presented the Internet-to-the-Hogan Program. The program aims to provide broadband connectivity to remote areas in Indian country in northwest New Mexico in order to promote economic growth and development. The program proposes to achieve 200 mbps wireless connectivity from Albuquerque to Crownpoint via Harris Radios, provide 150 mbps to Navajo chapter houses from CIT via Motorola backhaul and 15 mbps to a house or hogan. Currently, the project is taking an inventory of community infrastructure, namely the location of CIT towers. Mr. Romero reported that cell phone reception is almost nonexistent on the reservation. CIT is working on technology that would take advantage of the hogan program, such as Navajo language real-time translation, a local Navajo television station and emergency response.

Qwest Rural Extension Fund — Status Update

PRC Commissioner Baca announced that the commission issued its Order on Reconsideration (Case No. 05-00181-UT) for the termination of Qwest's Rural Extension Fund (REF). The commission and Qwest stipulated that Qwest's \$2 million per year obligation to fund the REF should be terminated with the current balance held by Qwest as a New Mexico-specific dedicated liability. The commission, however, did not decide whether the REF subsidy should be increased, whether the unspent balance should be refunded to customers and whether there should be a rate reduction in conjunction with the termination of Qwest's obligation to fund the REF. The REF was created in 1986 with \$2 million in annual contributions. Theoretically, it accrued \$40 million, but maintains a current balance of \$15 million with the remaining \$25 million spent by Qwest. Leo Baca of Qwest said the balance can still be used for special projects

in rural areas. Qwest will be approaching the commission to discuss B. Anaya Road near Stanley. The original purpose of the fund was line expansion to rural customers. Every company has a line extension policy, but Qwest was the only company with a fund to support the policy. Mr. Baca could not answer how many homes were provided with service by the REF, but promised to get those numbers to the committee.

Economic Partnership Program — Status Update

Ray Mondragon, manager of Area Economic Development Partnership, ENMR Plateau, and Tom Phelps, CEO of ENMR Plateau, presented current strategies for increasing the number of jobs in rural communities. As a private company, ENMR Plateau received a grant called "Nuestros Vecinos" to assist in job creation for rural communities. Projects assisted include the Community Development Corporation in Fort Sumner (25 jobs), Logan Medical Clinic (five jobs) and the detention facility in Clayton (225 jobs). The grant also will allow ENMR Plateau to provide a bank in Vaughn, since Wells Fargo has shut down its bank there.

Clark Krause, CEO of the New Mexico Economic Development Partnership (NMEDP), is an out-of-state recruiter for companies to bring jobs to New Mexico. The NMEDP performs site visits and recruits companies that fit with New Mexico communities. Gallup, Tucumcari and Grants will receive site visits this year. The goal is to bring 3,000 jobs, 40 percent in rural New Mexico. These 3,000 jobs will be "economic-based", excluding retail and insurance in a community. Economic-based jobs, according to assessment by NMEDP, are defined as jobs that export a service or a good in which 50 percent of the product leaves the state. Last year, NMEDP created 2,460 jobs, surpassing the 1,000-job goal. Leah Harrison, marketing specialist for NMEDP, described the marketing programs, which includes sending a monthly newspaper and organizing community participation in trade shows internationally. Virgin Galactic brings tremendous traffic to the New Mexico booth at these trade shows. She also serves as a liaison to legislators.

KLG, a Manhattan-based company, performed an opportunity analysis on New Mexico, which found that attracting businesses requires training a quality workforce, and keeping existing talent in the state and attracting new talent are crucial. Legislators discussed issues around college credit transfers. College credits do not transfer easily between New Mexico schools, and allowing such transfers could create a more well-educated workforce.

Minutes

On a motion by Representative Lundstrom, seconded by Representative Garcia, the committee unanimously voted to approve the minutes from the July meeting with the deletion of the motion to write a letter to the Pittsburgh and Midway Coal Mining Company.

Economic Development Department — Update

Rick Homans, secretary of economic development, handed out the annual report for fiscal year 2006. In sum, New Mexico saw the strongest job growth in 11 years, and the unemployment rate is 4.4 percent in contrast to 5.9 percent in 2003. New Mexico ranks twelfth in the nation in personal income growth. Secretary Homans explained that the certified

community program that began three years ago is successful. Thirty communities have achieved certification, which allows communities to engage in investments and apply for main street and co-op advertising funds. Applications are graded and ranked based on a clear criteria provided by the agency. A letter was distributed from Ed Carr, the Otero County Economic Development Council's director, lauding the success of the marketing program called Co-Op Advertising. The letter requests the state to increase the allocation for the Co-Op Advertising Program by increasing current marketing efforts. In response to questions from legislators on the spaceport, Secretary Homans said that the access to the spaceport will come through Truth or Consequences. For the proposed funding of the spaceport through a county gross receipts tax, there will be a special election in 2007. If each of the seven proposed counties participate, the tax would be one-sixteenth percent. However, fewer communities could achieve this goal. For example, if Dona Ana County imposes a one-fourth percent tax for 20 years, it would equal the \$45 million needed. This tax is a critical part of the funding for the spaceport. There is currently a \$115 million unused appropriation for the spaceport.

WIRE New Mexico — Industry Comments and Response

Sam Ray and Charles Ferrel of the New Mexico Exchange Carrier Group (NMECG) are concerned about the state acting as a telecommunications provider rather than an aide for rural communities to gain broadband access. If the state competes directly through the WIRE New Mexico Program, NMECG revenue losses could result in upward pressure to increase local rates to rural customers. NMECG requested a place on the agenda for the next meeting in order to propose legislation. NMECG is a conglomeration of small companies that provide service to more than 66 percent of the state's geography in rural areas. NMECG has recently committed to the transition from copper to fiber optics, thereby boosting capacity for high-speed internet. A legislator expressed concern that money is being wasted because of too many separate systems. Art Jaramillo, secretary of general services, informed the committee about the work of the governor's task force to look at these issues and explore public-private partnerships. The state's goal is to avoid duplication of infrastructure in a prudent and cost-effective manner. WIRE New Mexico is not self sufficient, although it is estimated it will be. WIRE New Mexico has received millions of dollars in appropriations. Roy Soto, CIO for WIRE New Mexico, explained that the issue of whether WIRE New Mexico can contract out excess lines is still undecided. A legislator expressed concern that these lines still are not reaching a significant population of the Navajo Nation.

The meeting was recessed by Representative Garcia at 6:40 p.m.

Thursday, September 28

The fourth meeting of the Economic and Rural Development and Telecommunications Committee for the 2006 interim was reconvened by Representative Garcia on Thursday, September 28, at 9:04 a.m. at the Best Western Pine Springs Inn in Ruidoso Downs.

Alcohol Licensing

Gary Tomada, director of the Alcohol and Gaming Division of the Regulation and Licensing Department (RLD), gave a brief synopsis of the alcohol licensing history and system in New Mexico. In theory, the state issues one liquor license per every 2,000 inhabitants, which should equal 900. However, 1,410 licenses currently exist. More than 1,300 licenses were grandfathered in and the state has not issued new licenses since 1981. As the law stands now, if a business wants to serve beer, wine and liquor, the business must buy an existing license. (Note: beer- and wine-only licenses are unlimited.) Section 60-6B-12(A) NMSA 1978 of the Liquor Control Act provides that licenses originally issued before July 1, 1981 may be transferred to any location within the state except class B counties and any county that prohibits by election the transfer of a license from another local option district. Currently, the state is not permitted to issue any new dispenser licenses until the population grows to 2.8 million.

Edward Lopez, superintendent of regulation and licensing, presented conclusions from a study analyzed by the DWI Resource Center. The study, based on eight years of citations for DWI, shows a strong correlation between the density of liquor licenses and incidences of DWI. Based on the results, Mr. Lopez emphasized the need to pay attention to the supply side. One suggestion for reducing the number of liquor licenses and, thus, addressing the supply side, is to establish a buy-back program to retire the licenses. He concluded that restaurants serving alcoholic beverages to complement food are not the problem. Rather, the strongest correlation exists where there are bars with the primary function of serving alcohol. On the flip side, the scarcity of liquor licenses often stifles new businesses moving in, particularly hotels and chain restaurants. Also, some communities want more licenses issued. For instance, the mayor of Sunland Park — an area of growth — has requested more licenses and reports the community is four under quota. The mayor proposed the issuance of new dispenser licenses by lottery. Legislators discussed whether restaurants and hotels should have an easier time acquiring licenses because those establishments are not the problem.

Administrative Regulatory Reform

Sayuri Yamada of the Association of Commerce and Industry (ACI) and T.J. Trujillo, attorney with expertise in administrative law, presented a solution to regulatory obstacles called regulatory justice. ACI is a statewide business advocacy organization with more than 1,300 members and is one of 10 organizations that supports regulatory justice. Regulatory justice is based on the principle that government should create a regulatory system that is simple, enhances confidence, promotes accountability and ensures consistency in administrative proceedings. Currently, representatives of ACI believe that state government makes it difficult for businesses and the general public to navigate the regulatory maze. ACI has tracked three trends. First, there has been an increase in administrative agencies. Second, there has been an increase in the volume of rules. Third, there has been an increase in the amount of discretion given to regulators. As a result, there is a significant cost on the backside for businesses in attorney fees to decipher what procedures require compliance. In response to legislators' questions regarding action, ACI suggested a bill that creates one consolidated board, commission or new department that addresses regulatory reform measures as opposed to proposing 10 different bills. Many states have seen success with this kind of structure. The ACI hopes that the legislature will give

a broad grant of rulemaking authority to propose fees and promulgate rules. The newly created body would make decisions based on a review of economic impact statements. When an agency makes a rule, it would submit an economic impact statement to the board for analysis. One legislator was concerned that much of the proposed legislation in the regulatory justice package would intimidate members of the public from challenging businesses. For instance, the suggestion that the losing party pay attorney fees will deter challenges. Legislators emphasized the need for public, not just industry, input.

New Mexico Horse Racing Industry — Update

Eddie Fowler, chair of the State Racing Commission (SRC), and Pat Bingham, vice president of the New Mexico Horsemen's Association, reported that horse racing "is on the upswing". Attendance has increased, as has the horse population. The state has 1,550 stalls and over 2,800 applications. There are almost 9,000 racehorses in New Mexico. Horse racing contributes tremendously to New Mexico's economy, especially in tax revenue. They estimated that the money coming in is \$5.00 or \$6.00 for every \$1.00 spent. The committee requested information on the number of people employed by the horse racing industry making more than minimum wage that have health care.

A legislator asked about the rumor of a casino and track moving out of Albuquerque. In response, SRC Executive Director Julian Luna said that nothing has officially happened. If there are plans, an application would need to be filed and that application would need to be approved. Another legislator wanted to understand how to get a track in his district. Mr. Luna said that the SRC has a responsibility to ensure tracks are not running all over the state. Some tracks would benefit from more hours, but the horse racing industry has no plans to ask for a bill. The legislators briefly discussed the Pueblo of Jemez proposal for a racetrack casino in the southern part of the state, but reached no conclusion.

Adjournment

There being no further business before the committee, the fourth meeting of the Economic and Rural Development and Telecommunications Committee for the 2006 interim was adjourned at 12:30 p.m.